

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MOHAMMED A. CHOWDHURY,
Plaintiff,

-v-

BERKSHIRE HEAVY HAULERS, INC.
et al.,
Defendants.

20-CV-1932 (JPO)

ORDER

J. PAUL OETKEN, District Judge:

This action was filed in New York State court on October 3, 2019, and was removed to this Court on March 4, 2020. (Dkt. No. 1.) By Order dated July 30, 2020, the Court directed Plaintiff to appear no later than August 14, 2020, and directed Defendants to serve a copy of the Order on Plaintiff. (Dkt. No. 6.) Defendants emailed a copy of the Order to Plaintiff but provided no indication that Plaintiff had consented to electronic service. (Dkt. No. 7.) Plaintiff did not appear by August 14, 2020. By Order dated August 25, 2020, the Court then directed Defendants to serve Plaintiff in accordance with Federal Rule of Civil Procedure 5(b). (Dkt. No. 8.) On October 7, 2020, Defendants filed what appears to be email correspondence with Plaintiff's counsel, in which Plaintiff's counsel "consents to electronic service in the Southern District" and acknowledges receipt of Defendants' earlier emails. (Dkt. No. 11.) Still, Plaintiff did not appear.

As of the date of this Order — nearly four months after August 14, 2020, and over nine months since Plaintiff received notice that this case had been removed (Dkt. No. 3) — no appearance for Plaintiff has been noticed on the docket. The Second Circuit recognizes that "involuntary dismissal is an important tool for preventing undue delays and avoiding docket congestion." *United States ex rel. Drake v. Norden Sys., Inc.*, 375 F.3d 248, 250–51 (2d Cir.

2004). Should Plaintiff fail to appear by December 18, 2020, the Court will dismiss this case for failure to prosecute.

Counsel for Defendants shall serve a copy of this Order on counsel for Plaintiff by December 11, 2020.

SO ORDERED.

Dated: December 8, 2020
New York, New York



J. PAUL OETKEN
United States District Judge